



24673A

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Bert W. Elliott
(signature)

1-18-05
(Date of signature and deposit)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Bert W. Elliott

Group Art Unit 3635

Serial No.: 09/515,928

Examiner: Steve M. Varner

Filed: February 29, 2000

Attorney Docket No.: 24673A

For: SHINGLE FOR OPTICALLY
SIMULATING A SLATE ROOF

DECLARATION UNDER 37 CFR 1.132

Mail Stop Amendments
Commissioner for Patents, P.O. Box 1450
Alexandria, VA 22313-1450

State of Ohio, County of Lucas

Bert W. Elliott, being duly sworn, deposes and says:

1. I am a 1981 graduate of Miami University of Ohio in Oxford with a Bachelor of Environmental Design, and a 1983 graduate of the University of Illinois at Champaign-Urbana, with a Master of Architecture and a Master of Business Administration. I am a Registered Architect in the State of Minnesota.
2. Prior to joining Owens Corning, I was a custom home designer and contractor in Minneapolis and a sales representative of architectural metal products.
3. I joined Owens Corning in 1992 as an Area Sales Manager selling commercial and residential roofing products. I have held various other positions in sales, technical, and financial areas.
4. In 1999, I started with the Roofing Division as a Project Leader focusing on the development of new roofing products. I led the design and technical development of the new Berkshire®, Woodcrest™ and Woodmoor™ premium shingle products.

BEST AVAILABLE COPY

5. I am named as the inventor on numerous patents and pending applications for roofing products, and in particular for asphalt shingle products. I am the inventor named on the above-identified pending patent application.

6. In order to better serve the residential roofing market, Owens Corning has developed several asphalt shingle products that provide the look or appearance of more expensive roof coverings. By using creative and innovative designs for asphalt shingles, Owens Corning can offer the customer the look or appearance of more expensive roofing products, while still giving the customer the benefits of low cost and high performance of asphalt material.

7. As an example, Owens Corning developed the Prominence® shingle having strong shadow lines to create a look of added depth and beauty on a roof to simulate a wooden shake appearance. The installed cost of the Prominence asphalt shingle is lower than that of wooden shakes, and the asphalt shingles offer a superior fire rating.

8. The subject matter of the above-identified application, which is an asphalt shingle and roofing system that simulates a slate tile roof, is another design intended to simulate a higher-priced roofing product at a lower cost.

9. In one embodiment of the invention, the shingles are provided with color blends of granules for each tab so that each tab is substantially uniform in color, with the color blend of one of the tabs being different from the color blend of at least one other tab in the shingle. When installed on a roof, each tab takes on the appearance of an individual slate tile, and a roof covering of such shingles gives the appearance of a plurality of adjacent slate roof tiles. The fact that the color blend of some of the tabs differs from the color blend of other tabs gives the appearance of a roof where some of the slate tiles differ in color from others of the slate tiles. This provides an aesthetically pleasing appearance as a roof covering. Customers are willing to pay a premium price over standard shingles to achieve this appearance, particularly since the installed cost of genuine slate tile roofs is extremely high.

10. Owens Corning began marketing the Berkshire shingle, which simulates a slate tile roof, in January, 2003 to offer to its customers such a desirable appearance at an installed cost substantially below that of conventional slate tile roofs.

11. The Berkshire shingle is illustrated in the Owens Corning marketing brochure entitled "Berkshire Collection", a copy of which is attached as Exhibit A. It can be seen that a roof covering of the Berkshire shingles has the aesthetically pleasing appearance of a more expensive slate tile roof, and therefore the Berkshire shingle is a product of great demand by customers in the residential shingle market.

12. Owens Corning began selling the Berkshire shingle to its customers in February, 2003. The Berkshire shingles were enthusiastically received in the residential shingle market, and sales in 2004 exceeded \$3 Million.

13. Since their introduction in February 2003, sales of Owens Corning's Berkshire shingles have experienced strong growth, thereby highlighting the fact that Berkshire shingles fulfilled a long felt need in the marketplace.

14. The solid growth of the Berkshire shingles has occurred without any significant advertising over and above normal marketing efforts for Owens Corning shingle products, and is attributable to, and directly derived from, the unique concept of simulating a tile roof by forming the shingles with tabs of substantially uniform color and having the color of some of the tabs differing from the color of other tabs.

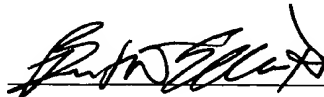
15. Additional evidence of the commercial success of the Berkshire shingles includes the fact that the market place is sustaining a price of about \$120 per square for Berkshire® shingles (i.e., sales price to the contractor), whereas the equivalent price for Oak Ridge PRO 50® shingles is only about \$60 per square. The Berkshire shingles carry a Lifetime Limited warranty and a 110 mph wind warranty, while the warranty for Oakridge PRO 50 is only 50

years with a 90 mph wind warranty. Based on the warranties alone one would expect the difference in price to be only about \$20 per square rather than \$60 per square, resulting in a net price premium of about \$40 per square.

16. In approximately June 2004 CertainTeed Corporation, an Owens Corning competitor, copied Owens Corning's concept of an asphalt shingle that simulated a slate roof, and began selling shingles similar to Owens Corning's Berkshire shingles under the brand name Centennial Slate™. A CertainTeed marketing brochure, entitled "Centennial* Slate™", illustrates the Centennial Slate shingles. A copy of the brochure is attached as Exhibit B.

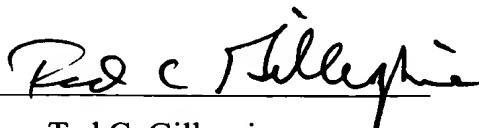
17. The fact that CertainTeed copied Owens Corning's concept of making a slate-looking roof by making the tabs of a substantially uniform color is additional evidence commercial success of the invention claimed in the above-identified patent application.

18. I hereby declare that all statements made in this declaration of my own knowledge are true, and that all statements made on information or belief are believed to be true; and further, all these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application and any patent issued from the application.



Bert W. Elliott

Sworn and subscribed before me
this 18th day of January, 2005.



Ted C. Gillespie
Notary Public

TED C. GILLESPIE, Attorney at Law
Notary Public - State of Ohio
My Commission Has No Expiration Date

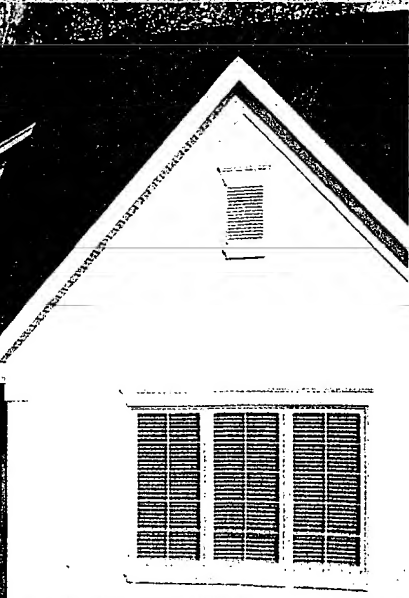
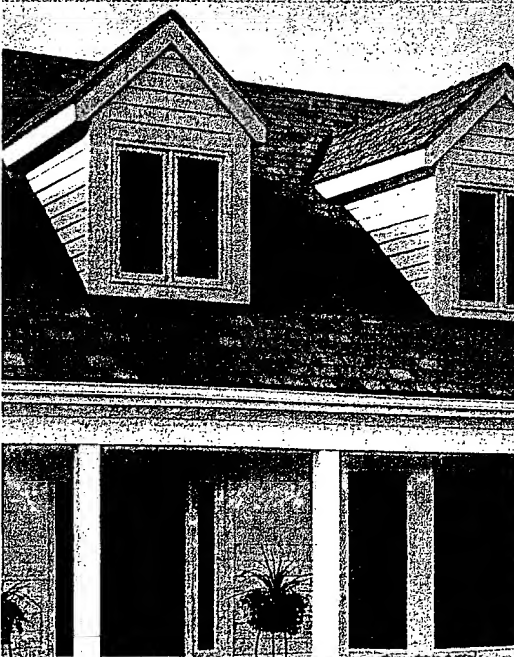
My commission has no expiration date.



BERKSHIRE® COLLECTION

BEAUTY THAT MAKES A STATEMENT

EXHIBIT A



Featured roof colors on houses are (clockwise, from top) Sherwood Beige,





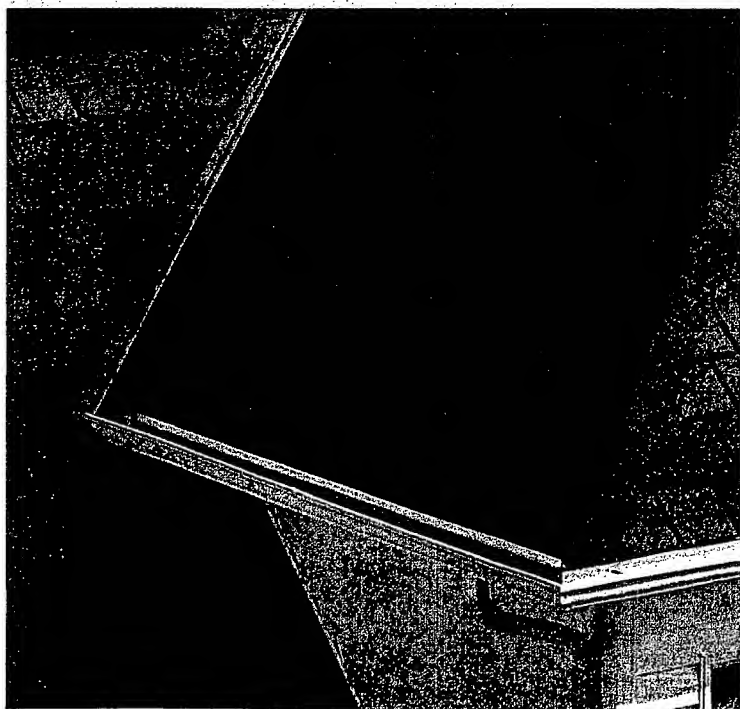
COLOR AVAILABILITY

Berkshire® Collection shingles offer more than an eye-catching roof—they help you create a beautiful home. Natural slate-like colors and textures blend with your home's surroundings to create an attractive, impressive look. Compatible with a variety of architectural styles, *Berkshire* Collection shingles add an appealing detail that is sure to make a statement.

- *Berkshire* shingles and *Berkshire* Hip & Ridge shingles offer a natural slate-like appearance in your choice of eight traditional and designer colors
- Unique color tabs blend four shades together for an attractive and distinctive look
- Compatible with a variety of architectural styles
- Limited Lifetime Warranty* with 10-year Tru PROtection® coverage includes 15-year algae resistance protection and 110-MPH wind resistance
- Complete roofing system requires *Berkshire* Hip & Ridge shingles, ventilation and water-resistant underlayment products



*See actual warranty for complete details, limitations and requirements.



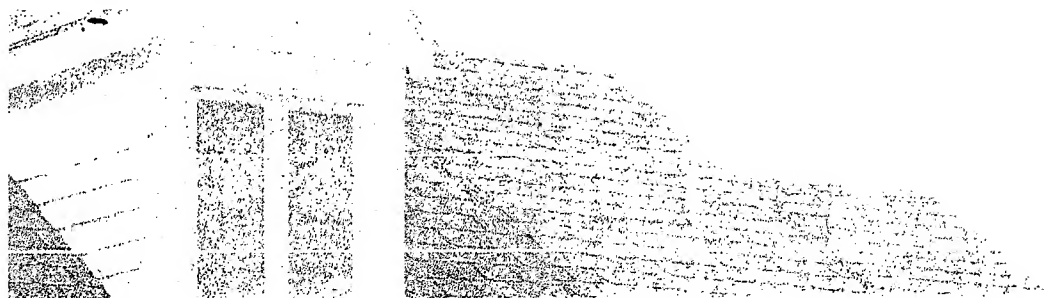
Canterbury Black[†]



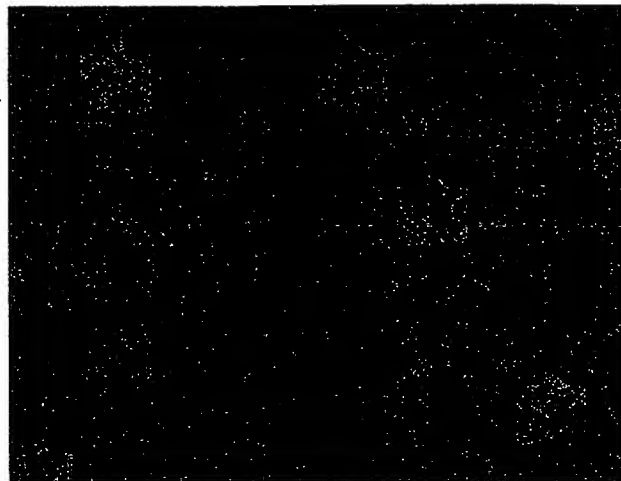
Concord[†]



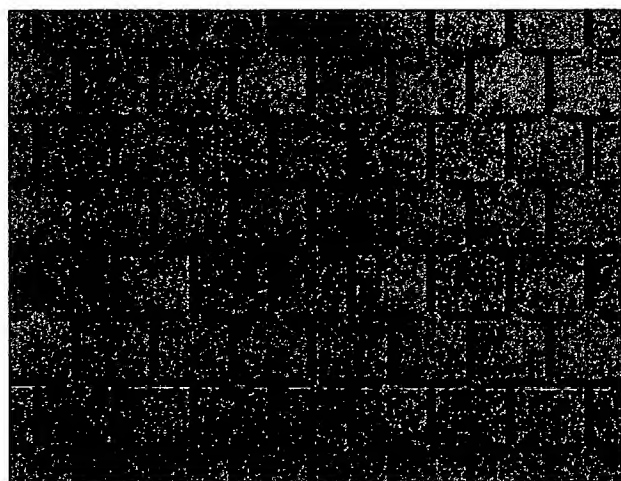
New Bedford Bronze[†]



Chelsea Green[†]



Colonial[†]



Dover Mist[†]



Manchester Grey[†]



Sherwood Beige[†]

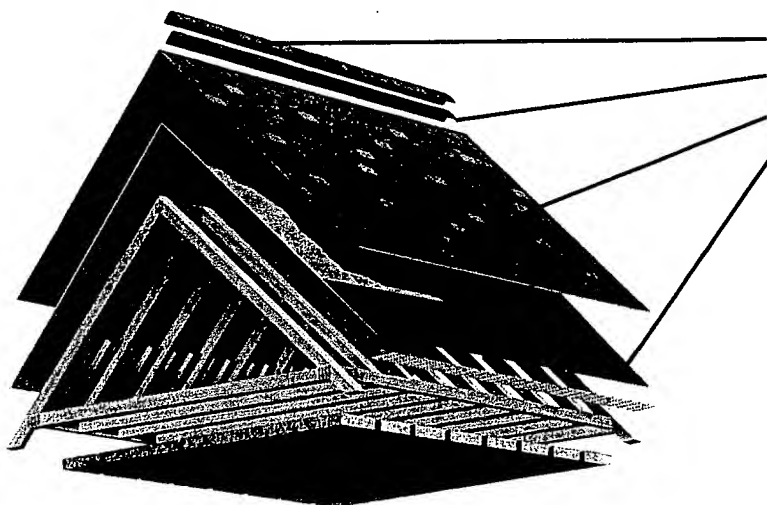
[†]Owens Corning strives to accurately reproduce photographs of shingles. Due to manufacturing variances, the limitations of the printing process and the variations in natural lighting, actual shingle colors and granule blends may vary from the photo. The pitch of your roof can also impact how a shingle looks on your home. We suggest that you view a roofing display or several shingles to get a better idea of the actual color. To accurately judge your shingle and color choice, we recommend that you view it on an actual roof with a pitch similar to your own roof prior to making your final selection. Color availability subject to change without notice.

BERKSHIRE® COLLECTION

BEAUTY THAT MAKES A STATEMENT

PROTECT YOUR HOME FROM THE TOP DOWN WITH OUR COMPLETE ROOFING SYSTEM

Your roof is more than just shingles. It's a complete system that also requires hip & ridge shingles, ventilation and water-resistant underlayment products. Each of these elements plays an important role in protecting your home, and they work together to ensure the beauty and durability of your roof.



Berkshire® Hip & Ridge Shingles

VentSure® Ventilation Products

Berkshire® Shingles

WeatherLock® Water-Resistant Underlayment Products

BERKSHIRE® HIP & RIDGE SHINGLES

Help protect ridge vents from weathering

- Cover your roof's ridge line
- Add extra protection
- Designed to complement your Berkshire shingles

VENTSURE® VENTILATION PRODUCTS

Help prevent structural damage

- Fit between the top of your roof and its hip & ridge shingles
- Reduce moisture condensation in winter and excessive heat in summer to help guard against premature aging and deck warping
- Help keep air moving through the attic, balancing outdoor and indoor temperatures

BERKSHIRE® SHINGLES

Provide protection and beauty

- Function best when used as part of a complete roofing system
- Ensure moisture resistance with weathering-grade asphalt coating
- Offer structural durability with a strong Fiberglas® mat core

WEATHERLOCK® WATER-RESISTANT UNDERLAYMENT PRODUCTS

Resist roof deck damage

- Act as a protective layer between your roof deck and shingles
- Are scientifically engineered to provide a solution to every application need with four uniquely designed water-resistant underlayments

Berkshire® Shingle Product Specifications

Nominal Size:	18¼" x 38"
Exposure:	8¾"
Shingles per Square:	45
Bundles per Square:	5 bundles of 9 shingles
Coverage per Square:	99.5 sq. ft.
Weight (approximate):	425 lbs. per square

Berkshire® Hip & Ridge Product Specifications

Nominal Size:	12" x 12"
Exposure:	8"
Pieces per Carton:	32
Lineal Feet per Carton:	21.3

Tested for Excellence

All Owens Corning shingles are tested to meet or exceed applicable standards measuring fire coverage and wind resistance.

Applicable Standards & Codes

ASTM D 3462	ASTM D 3018, Type I
ASTM E 108, Class A	UL 997
ASTM D 3161	UL 790, Class A



OWENS CORNING WORLD HEADQUARTERS
ONE OWENS CORNING PARKWAY
TOLEDO, OHIO, USA 43659
1-800-GET-PINK
www.owenscorning.com

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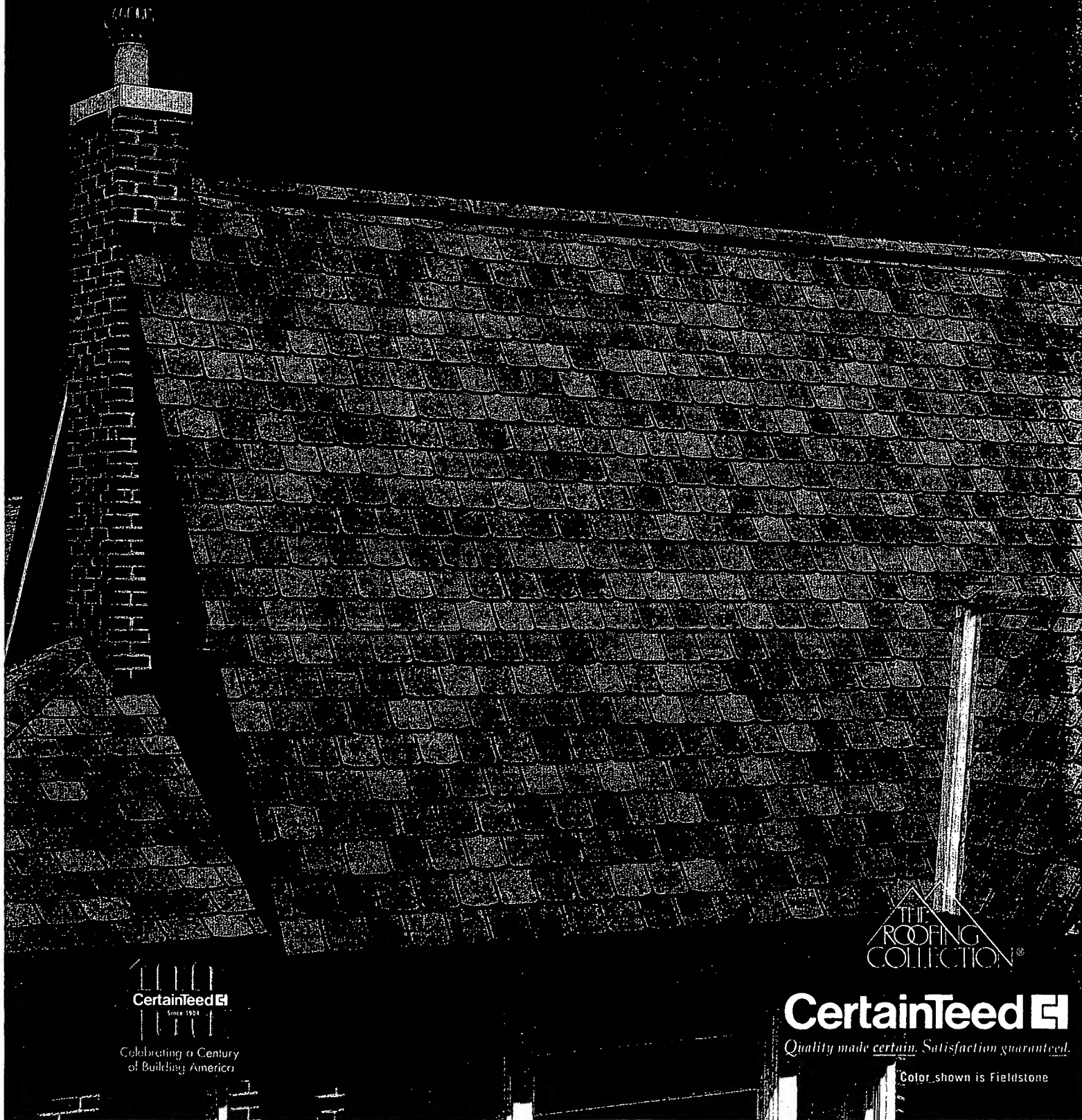


EXHIBIT B



CENTENNIAL★SLATE™

Innovation Through Science and Art™



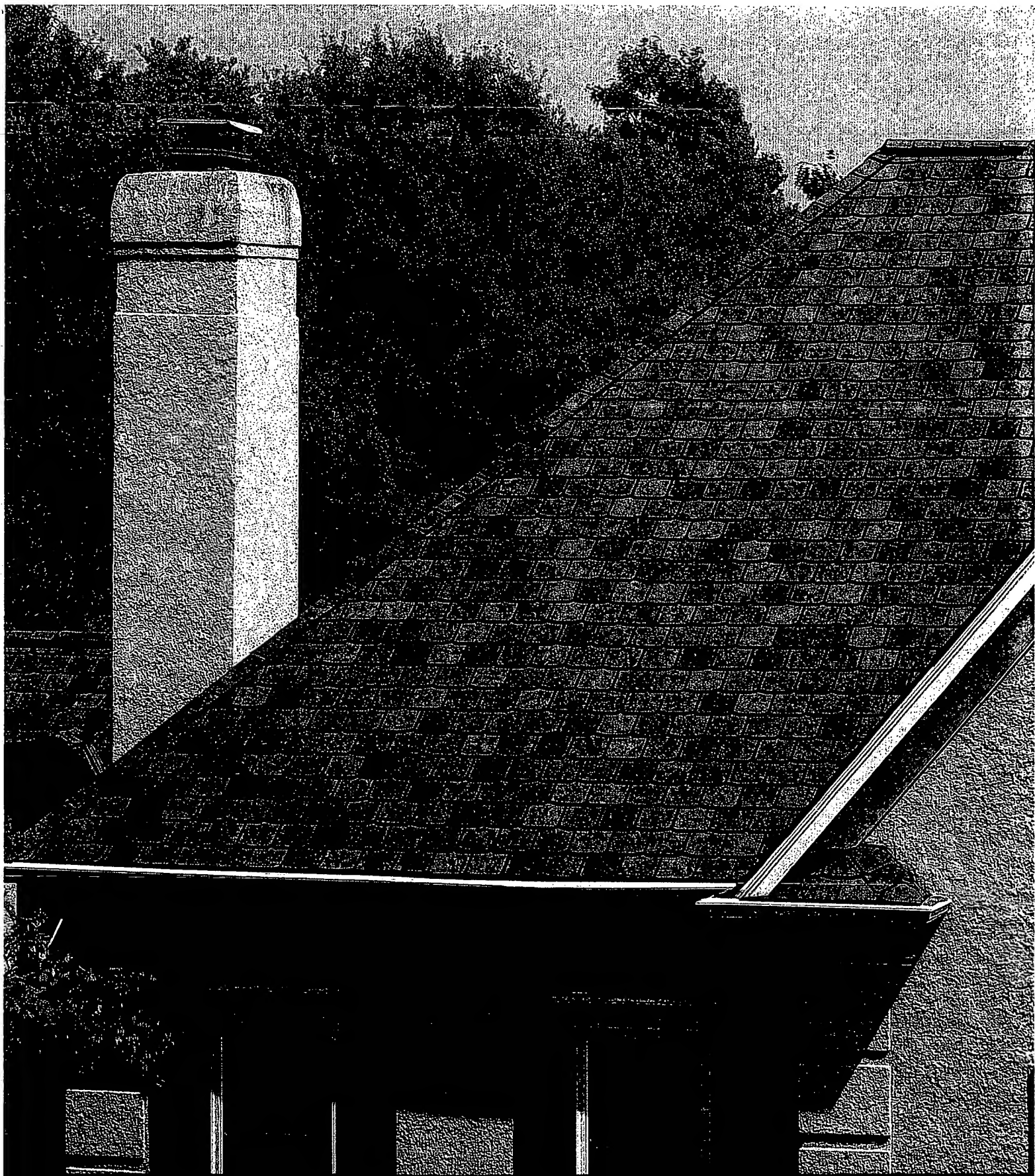
Celebrating a Century
of Building America

THE
ROOFING
COLLECTION®

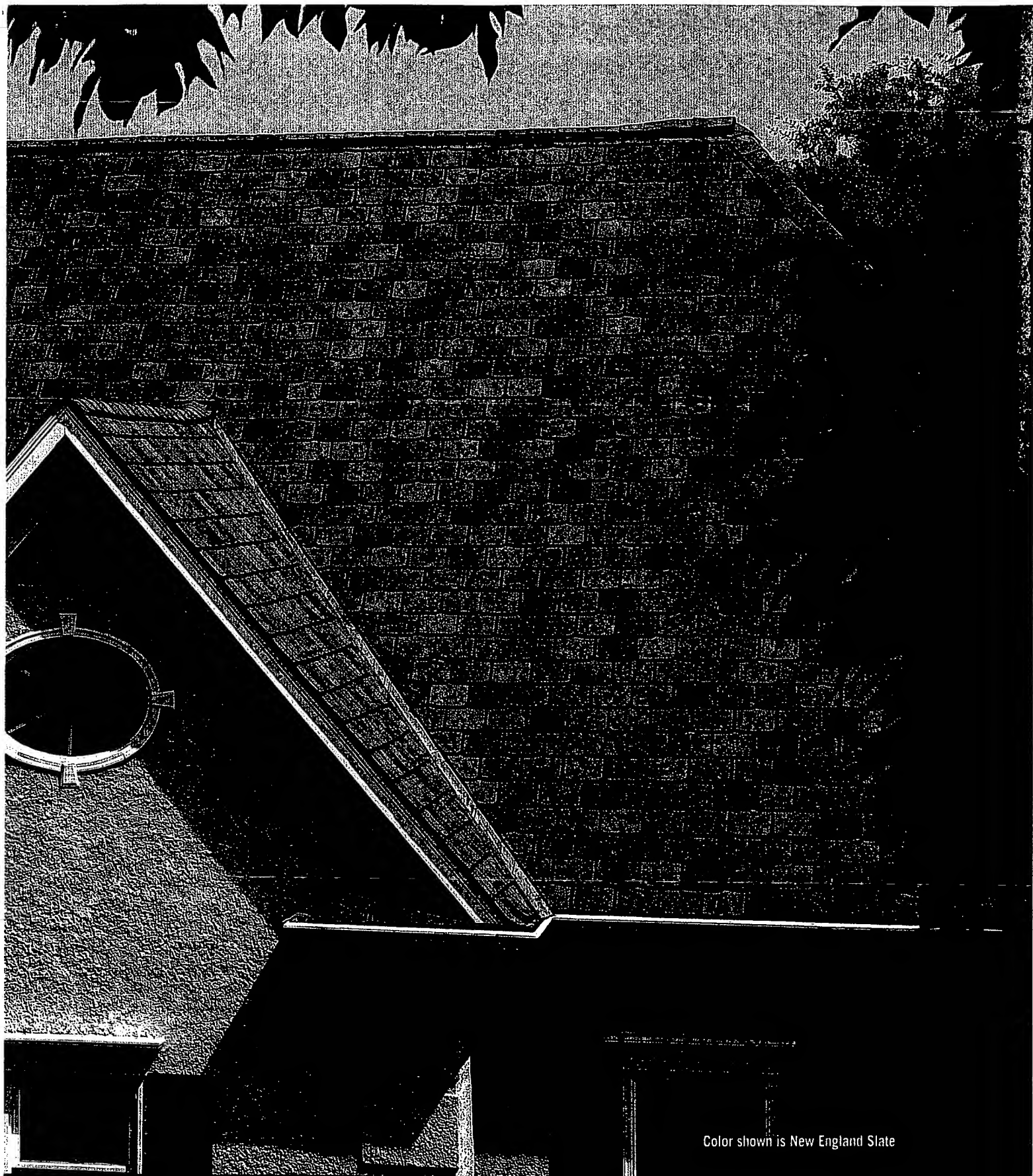
CertainTeed

Quality made certain. Satisfaction guaranteed.

Color shown is Fieldstone



Like the shingles themselves, the reasons
are many, varied, com

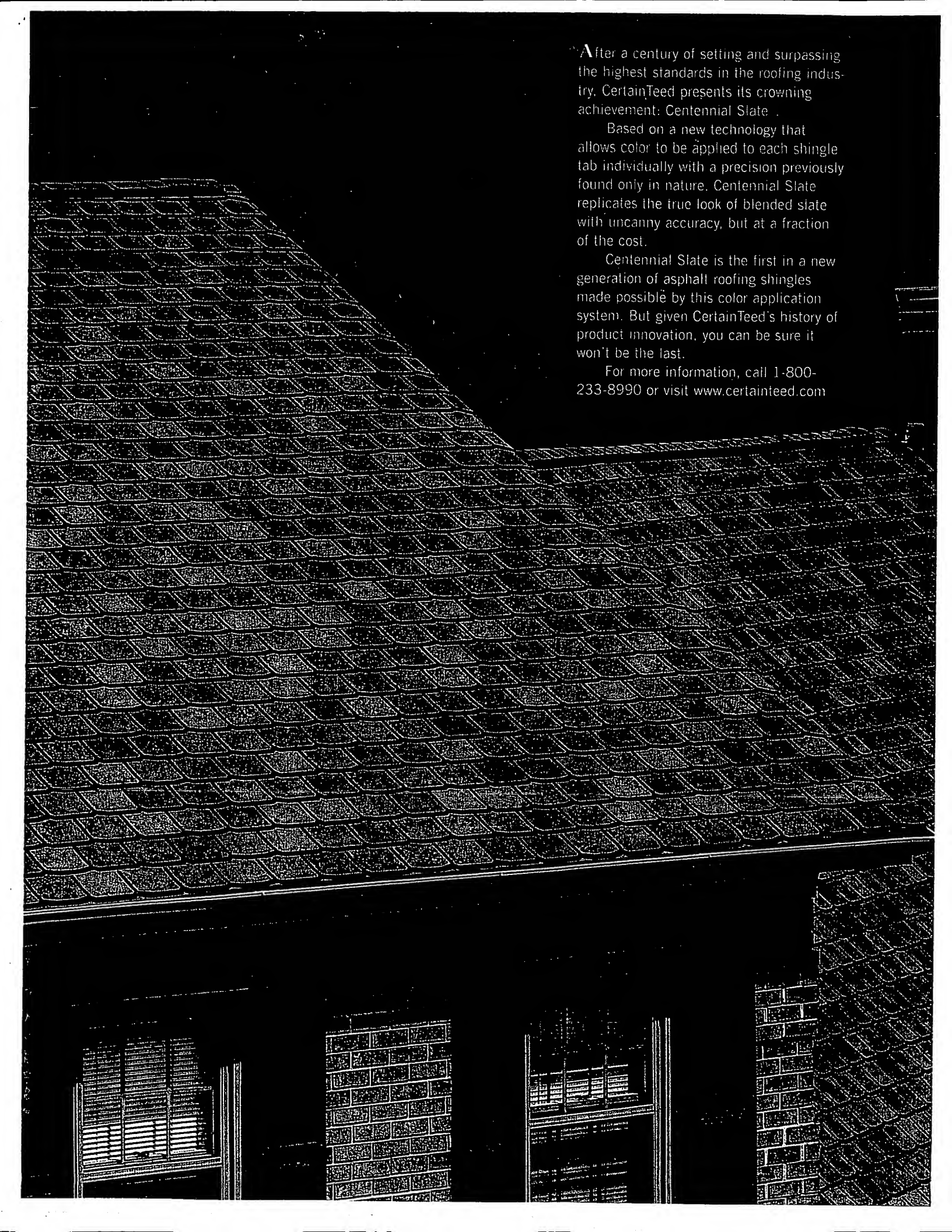


Color shown is New England Slate

selecting a roof of Centennial Slate
ing and enduring.

Welcome to
the slate of the art





After a century of setting and surpassing the highest standards in the roofing industry, CertainTeed presents its crowning achievement: Centennial Slate.

Based on a new technology that allows color to be applied to each shingle tab individually with a precision previously found only in nature, Centennial Slate replicates the true look of blended slate with uncanny accuracy, but at a fraction of the cost.

Centennial Slate is the first in a new generation of asphalt roofing shingles made possible by this color application system. But given CertainTeed's history of product innovation, you can be sure it won't be the last.

For more information, call 1-800-233-8990 or visit www.certainteed.com

**THE COLOR VARIES RICHLY.
THE QUALITY, NOT AT ALL.**

Although the color patterns have the spontaneous random beauty of natural slate, Centennial Slate is unvarying in the strength and durability of its construction.

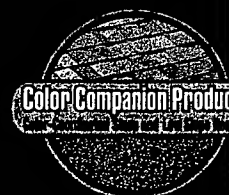
Equally suited to many architectural styles, Centennial Slate utilizes an ingenious design in which two full-sized base shingles combine to simulate the profile of natural slate, providing four full layers of weather protection when installed.

And to ensure the handsome profile endures unblemished, a special formulation of copper granules protects your roof for a full 15 years against the streaking and discoloration that can be caused by airborne algae.*

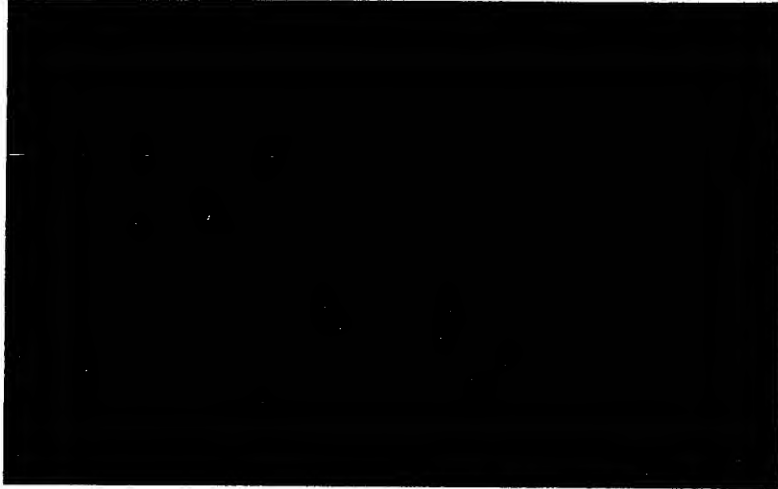
PROTECT YOURSELF.

Be sure to ask your roofing contractor for a copy of the CertainTeed product warranty or call the CertainTeed Home Institute at (800) 782-8777 to request a copy. We make it easy for you to view our warranties and register your investment online at www.certainteed.com/warranty.

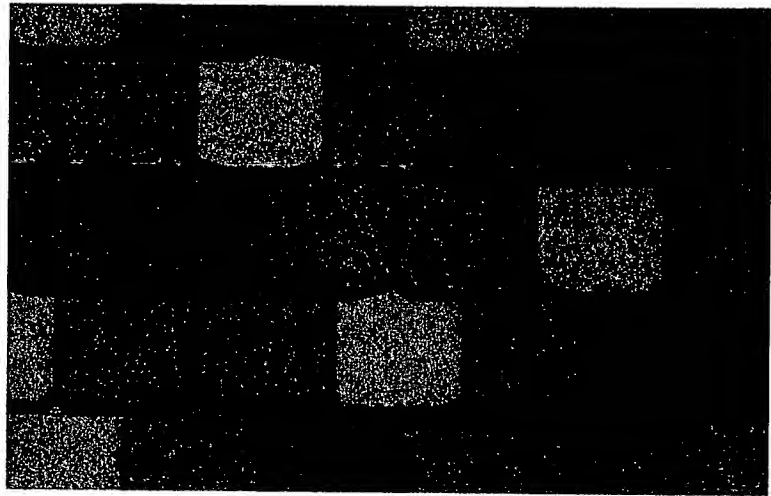
*See actual warranty for
details and limitations*



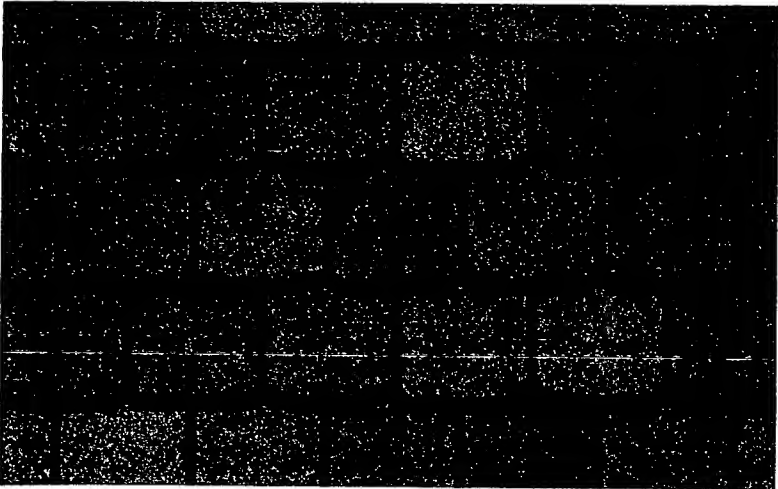
your Centennial Slate color palette



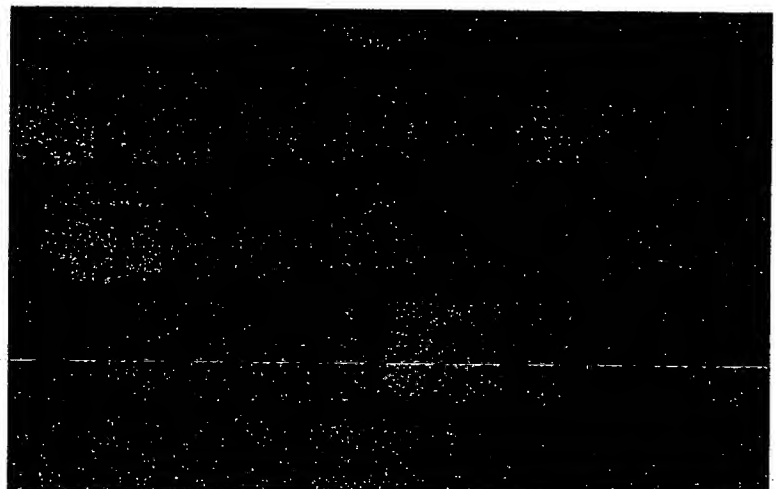
BLACK GRANITE



COUNTRY SLATE



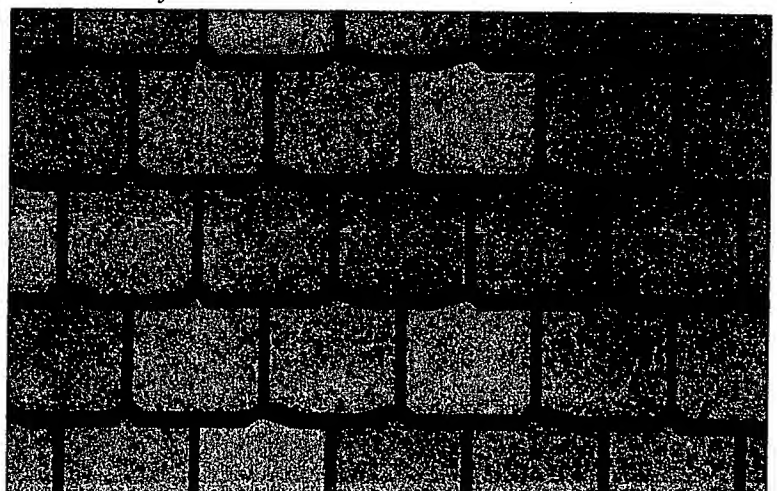
FIELDSTONE



NEW ENGLAND SLATE



PLYMOUTH ROCK

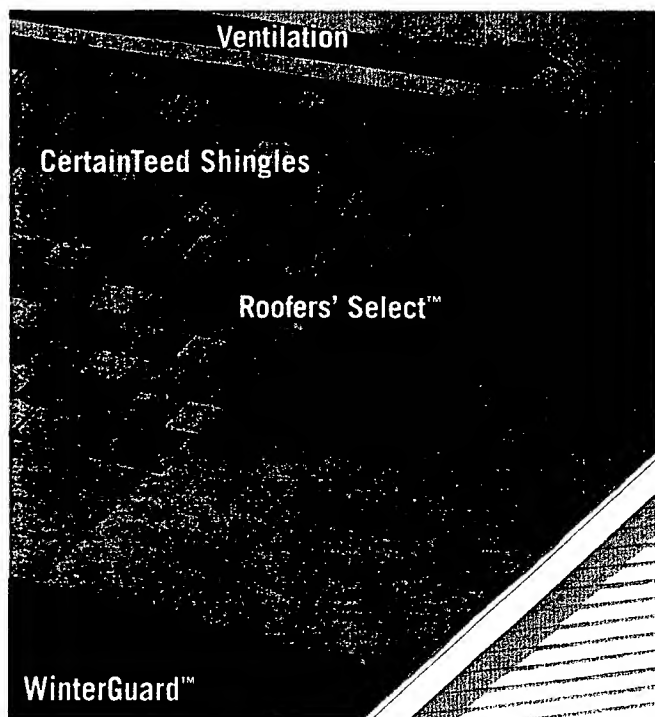


SMOKEY QUARTZ

THE INTEGRITY ROOF SYSTEM™

Superb performers that work even better as a team...

INSTALL THE SYSTEM.



WinterGuard™

Waterproofing shingle underlayment prevents leaks from ice dams and wind-driven rain in vulnerable areas.

Roofers' Select™

High-performance underlayment as a secondary barrier against leaks.

CertainTeed Shingles

High-quality shingles available in a wide variety of styles and colors, covered by one of the best warranties in the business.

Ventilation

A properly balanced ventilation system improves air circulation and provides year round benefits.

Flintlastic™ Roll Roofing

A selection of high-quality roll roofing products, including Flintlastic SA self-adhering membranes, for porches, carports, canopies, additions, and any low-slope roof. Available in 8 colors to match or complement CertainTeed shingles.

THE COLOR SELECTION PROCESS

The choice of color for your new roof is never an easy one. With so many attractive options to consider, and with all the variables that can affect its appearance (such as time of day, weather conditions and pitch), the best way to evaluate your color choice is always to view it, in daylight, on a roof that is pitched similarly to yours.

Although the photographs in this brochure, on our sample boards and on our website (at www.certainteed.com) are as accurate as modern technology will allow, there will always be variation in the printing process, in lighting conditions, and in the accuracy of computer monitors which will affect the appearance of color. We therefore recommend that you take the following steps before making a final decision:

- 1 View a full-size shingle
- 2 Look at actual roof applications
- 3 Consider viewing several roof applications under various kinds of light, i.e. bright sun, partial sun, full cloud, etc.
- 4 View homes with your shingle color choice with roof pitches similar to your own

NOTE: REPRODUCTION OF COLORS

throughout this publication is as accurate as modern printing will permit. Colors are subject to changes by granule manufacturers.

DOWN TO THE LAST DETAIL

Your Centennial Slate roof can be elegantly accented with coordinating Grand Manor/ Carriage House hip and ridge accessory in complementary colors. The accessory provides 8" of exposure and two full layers of protection when installed.

See chart to select the Grand Manor/Carriage House accessory color that best accents your Centennial Slate Roof.

Centennial Slate Color	Accessory Color
Smokey Quartz	Stonegate Gray
Fieldstone	Gatehouse Slate
New England Slate	Colonial Slate
Country Slate	Country Slate
Plymouth Rock	Plymouth Rock
Black Granite	Black Granite

High-Performance Starter, for use with Centennial Slate, saves time and money and is the only approved installation alternative to using the shingles themselves.

SPECIFICATIONS

- Patented Super Shingle® construction
- Virtual four-layer coverage when applied
- Fiber glass composition: U.L. Class A
- U.L. Certified to meet ASTM D 3462
- Miami-Dade accepted
- Algae resistant
- Provides the look of true blended slate
- 355 lbs. per square

WARRANTIES*

- Centennial Slate is manufactured with algae-resistant copper roofing granules and is certified to protect against discoloration for 15 years after installation.*
- Lifetime limited transferable warranty against manufacturing defects on residential applications
- 50-year limited transferable warranty against manufacturing defects on group-owned or commercial applications
- 10-year SureStart™ protection
- 10-year warranty against winds up to 110 mph

* See actual warranty for specific details and limitations.

ATTENTION: If you live in a coastal area where salt fog occurs on a frequent basis, but rain only occurs on an infrequent basis, you should not use aluminum gutters on buildings are roofed with algae resistant shingle products containing copper granules. Under these unique climatic conditions, interaction of the copper in the granules with the aluminum gutters can destroy the gutters.

Lifetime limited transferable warranty, including 10-year SureStart protection, are applicable only in the United States, its territories, Canada; for products sold outside these areas, please refer to the International Warranty for specific details and limitations.

Made under U.S. Pat. 5,287,669; 5,400,558; 5,421,134; 5,426,551,056; 5,660,014; 5,951,809; 6,195,951; 6,237,288; 6,305,623,316; 6,715,252. Other pat. pend. in the U.S. and Canada

THIS PRODUCT IS CERTIFIED BY UNDERWRITERS LABORATORY TO MEET ASTM D3462, A TOUGH SHINGLE PERFORMANCE STANDARD REQUIRED IN MANY OF TODAY'S BUILDING CODES.

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Valley Forge, PA 19482
(610) 341-7000

TECHNICAL SERVICES

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FAX ON DEMAND

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For more information on this or any of CertainTeed's family of building products, visit us at www.certainteed.com or call (800) 782-8777

CertainTeed

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